IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

TAKEN UP WRIT PETITION NO : 19067 of 2004

Between:

1 Smt.Polisetti Pratibha Rani, W/o.P.Ramu,
R/o.Vijayawada, Krishna Dist.
2 Sri A.Sanjeeva Reddy, Advocate & founder Trustee of "Aasara", Socio-

Legal service Organization, Avagahana Aavarana,
Aasara Sthali, 15/1, Arangalpeta, Guntur.

..... PETITIONERS

AND

1 The Superintendent of Police, Guntur Dist. at Guntur.
2 The Secretary to the Govt. of A.P., Home (police) Dept., Secretariat,

Hyderabad.
3 Polisetty Ramu, S/o.Hari Prasada Rao,
R/o. "Guru Krupa", Ist Lane, Rajendra Nagar, Guntur City, Guntur Dist.
4 The District Judge cum Chairman, District Legal Services Authority,

Guntur.
5 The Member Secretary, A.P.State Legal services Authority, High Court

Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

call for records and remarks from the Respondents herein in regard to (i) H.M.O.P.No.98 of 2004 on the file of the court of the Addl. Senior Civil Judge, Guntur, (ii) taking divorce in the court from the petitioner No.1 herein by her husband P.Ramu, of Guntur i.e. 3rd respondent after obtaining the signatures of the petitioner No.1 herein on some blank papers and blank cheques, (iii) filing a petition for divorce in the court with the signed papers and producing fake woman in the name of the petitioner No.1 herein, diverting the case to Lok Adalat organized by the 4th respondent and producing the some woman other than 1st petitioner before the Lok Adalat and obtaining divorce by playing fraud on the petitioner No.1 as well as the court and Lok Adalat (iv) handing over a demand draft for Rs.3.00 Lakh to the fake woman before the Lok Adalat and after encashing it by the fake woman, driven out the petitioner No.1 herein out of the husband's house; (v) ill-treatment and torture of the petitioner No.1 herein in various methods by her husband P.Ramu i.e. 3rd respondent and his mother and finally driving her from the house with her brother Praveen Kumar, and to pass appropriate orders directing the concerned authorities to order inquiry into the matter and punish the concerned according to law, and to follow the mandatory provisions of section 14 of the Hindu Marriage Act before entertaining petitions for divorce and the rules framed by the Hon'ble High Court in that regard and to set aside the award passed by the Lok Adalat organized by 4th respondent.

Counsel for the Petitioner:LETTER

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

Counsel for the Respondent No.3: Mr.M.V.S.Suresh Kumar

Counsel for the Respondent Nos.4 and 5: None appeared.

Mr.V.Venkataramana, Amicus curiae

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This is a taken up petition. The facts giving rise to take up this petition may be narrated:

On 4th October, 2004, newspaper reports appeared that one Polisetti Prathibha Rani of Vijayawada alleged that her husband Polisetti Ramu of Guntur took her signatures on some blank papers and blank cheques and filed a petition seeking divorce with those signed papers. Newspaper reports state that P.Ramu produced another woman impersonating as Polisetti Prathibha Rani and got the case transferred to Lok Adalat, before which court also, some woman who impersonated as Polisetti Prathibha Rani obtained a divorce. Demand Draft of Rs.3,00,000/- was also handed over to the said lady and on the basis of the signatures obtained on blank papers, the demand draft was got encashed. On coming to know of this, Prathibha Rani tried to have the order of the Lok Adalat reviewed and also submitted compliant to the Superintendent of Police. On reading of this report, the Executive Chairman, A.P. Legal Services Authority, Hyderabad asked the Member Secretary, A.P. Legal Services Authority, Hyderabad to obtain report from the District Judge-cum-Chairman, District Legal Services Authority, Guntur. A report was submitted by the District Judge-cum-Chairman, District Legal Services Authority, Guntur that petition seeking decree of divorce was submitted on 17th May, 2004 by the husband (P.Ramu) represented by counsel. There was some office objection. It was returned and was represented on 18th May, 2004 before the vacation Civil Judge, Guntur. Notice was directed to be served upon the respondent-wife (Polisetti Prathibha Rani) for appearing in court on 29th June, 2004. Vakalatnama was filed on behalf of the wife by Sri K.Rama Chander Rao and J.Koti Reddy, Adocates. On completion of the vacation, the file was sent to the Principal Senior Civil Judge, Guntur and the same was numbered as HMOP No. 98 of 2004

and was made over to the I Additional Senior Civil Judge's Court, Guntur. When the case was called, Sri K.Rama Chander Rao and J.Koti Reddy, who have already filed vakalat on behalf of the respondent-wife, appeared and the case was adjourned to 29th July, 2004 for filing counter affidavit. Before the next date of adjournment, on 5th July, 2004, a joint memo was filed for referring the case to Lok Adalat. The case was referred to Lok Adalat in view of the joint memo. In Guntur, a permanent Lok Adalat is conducted daily between 4.30 PM and 6.30 PM. On the same day, the matter was called in Lok Adalat, parties who appeared were enquired into and in terms of compromise, award was passed by Lok Adalat. The report revealed that as per the contents of the petition, marriage having taken place on 20th June, 2003, petition could not have been instituted on 17th May, 2004. Report also revealed that subsequently, the wife Polisetti Prathibha Rani had appeared in court and through another advocate, sought review of the order. Application for review was returned on the ground that there was no provision to review the Award of the Lok Adalat. The Executive Chairman on receipt of the report asked the Member Secretary to submit papers before the Hon'ble Chief Justice to take it up as a petition in view of the public importance involved therein. Accordingly, the petition was registered as W.P.No.19067 of 2004 between Smt.Polisetti Prathibha Rani and another (petitioners) vs. The Superintendent of Police, Guntur and others (respondents). The husband-Polisetti Ramu is arrayed as respondent No.3.

On 14th October, 2004, a Division Bench of this court directed the fourth respondent to submit a report along with the entire record of H.M.O.P.No.98 of 2004. Respondent No.3 was also directed not to remarry till further orders from the court with further direction that on the next day, he shall remain present in court.

Sri V.Venkataramana, advocate, was asked to assist the court as *amicus curiae*. On 26th October, 2004, copy of the last order was directed to be sent to the District Judge-cum-Chairman, District Legal Services Authority, Guntur with direction to remit the record and serve respondent No.3. Respondent No.3 was served. He as well as the petitioner-Polisetti Prathibha Rani were present on 18th November, 2004. Reply has been filed. We have also questioned Polisetti Prathibha Rani. She denied having appeared in the divorce proceedings before the court and reiterates the stand which appeared in the newspapers that signatures were obtained under duress and threat from her by her husband and others on blank papers, which were

used in obtaining divorce. She states that she never withdrew the sum of Rs.3,00,000/- and never was given any draft.

Learned counsel for respondent No.3 firstly raised objection about the maintainability of the writ petition filed by the Member Secretary of A.P. Legal Services Authority and also reiterated what is alleged in the counter affidavit that there was no fraud played. Petition seeking divorce was filed in which petitioner-wife was duly served. She appeared in court through counsel and also before Lok Adalat and the decree passed is in accordance with law.

The basic question as to whether petitioner did or did not appear in court or that some other lady impersonated the petitioner-wife being highly disputed, which might require considerable evidence to be led by the parties, we leave it open to be examined in appropriate proceedings in case petitioner herein would like to take up the said matter before appropriate court or forum. But the award passed by the Lok Adalat dissolving the marriage of the parties by decree of divorce is another point for our consideration: Whether we should or should not in these proceedings pass any orders thereupon?

Admittedly, marriage between the parties was performed on 20th June, 2003. Sub-section (1) of Section 14 of the Hindu Marriage Act mandates that it shall not be competent for any court to entertain any petition for dissolution of marriage by decree of divorce unless at the date of presentation of the petition, one year has elapsed since the date of the marriage. There is a proviso to sub-section (1) of Section 14 which enables the court to grant leave to the parties to present petition before expiry of one year since the date of the marriage provided an application is made to that effect in accordance with the rules made by the High Court making it a case of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent. The proviso further says that in case leave is obtained by misrepresentation or concealment, even the petition will have to be dismissed without prejudice to any petitioner, which may be brought after the expiration of the period of one year. Admittedly, in the instant case, no such leave was obtained. As such on 17th May, 2004, when petition seeking divorce was presented by the third respondent before the vacation Civil Judge, Guntur and the same was returned and represented on 18th May, 2004, it could not have been entertained. The very entertaining of this petition as a petition seeking dissolution of marriage by decree of

divorce was without jurisdiction. No leave was granted by the court and on such a petition filed, over which there was no jurisdiction with the court to entertain, no further orders could have been passed and the court could not have made it over to the Lok Adalat and on such petition, Lok Adalat also could not have passed decree of divorce dissolving the marriage between the parties. Orders obtained on a petition entertained by the court without jurisdiction being nullity, the decree passed as such shall have no effect in the eye of law and all consequential actions taken pursuant to the decree have to be declared as such.

Having come to the conclusion that the decree passed by the Lok Adalat in HMOP No.98 of 2004 is a nullity and is liable to be quashed and set aside, we need not now go to the other disputed facts and pass any orders thereupon but would leave it open to the parties to work out their remedies in accordance with law.

We are informed that Cr.No.223 of 2004 of Pattabhipuram Law and Order Police Station has already been registered. The said crime will be duly investigated in accordance with law and in case any of the record of the Lok Adalat and the Court of the Senior Civil Judge in the aforementioned petition will be required, the District Judge will ensure that the same is made available to the investigating officer.

We will also leave it open for the respondent No.3 to work out his remedies in accordance with law in case he would like to obtain a decree of divorce. Consequently, we allow the petition to the extent that decree passed by the Lok Adalat, Guntur District on 5th July, 2004 in HMOP No.98 of 2004 dissolving the marriage between the parties is declared null and void and is quashed and set aside. Consequently, the petition filed by the respondent No.3 seeking decree of divorce is also dismissed.

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DEVINDER GUPTA, CJ

9-12-2004

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M.NARAYANA REDDY, J

Tvr

To

1 The Superintendent of Police, Guntur Dist. at Guntur.
2 The Secretary to the Govt. of A.P., Home (police) Dept., Secretariat,

Hyderabad.
3 The District Judge cum Chairman, District Legal Services Authority,

Guntur.
4 The Member Secretary, A.P.State Legal services Authority, High Court

Buildings, Hyderabad.

5 2 CCs to the Govt. Pleader for Home, High Court Buildings,

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